

Memorandum

To : Ms. Cynthia Bridges
Executive Director (MIC 73)

Date: June 5, 2014

From : Mr. Jeffrey L. McGuire, Deputy Director
Sales and Use Tax Department (MIC 43)

Subject : **Board Meeting June 24-26, 2014**
Item N: Administrative Agenda
Proposed Addition to Compliance Policy and
Procedures Manual Chapter 7, Collections

In accordance with the established procedures for audit and compliance manual revisions, I am submitting proposed new section 720.031, *Procedure for Obtaining and Safeguarding Information from the Internal Revenue Service (IRS)*, to Compliance Policy and Procedures Manual (CPPM) Chapter 7, *Collections*.

The proposed new section, which incorporates current policy for requesting and using Federal Tax Information and adds two new exhibits, has been reviewed and approved by SUTD management, provided to Board Members, and posted at <http://www.boe.ca.gov/sutax/pmr.htm> to solicit comments from interested parties. No comments were received from interested parties or Board Members with regard to these revisions.

The new section and the two exhibits are attached for your reference. We request your approval to forward them to the Board Proceedings Division for placement on the Administrative Agenda as a consent item at the June 2014 meeting.

If you have any questions, please let me know or contact Ms. Susanne Buehler at 324-1825.

JLM:rs
Attachment

STATE BOARD OF EQUALIZATION

BOARD APPROVED

At the June 24, 2014 Board Meeting

Joann Richmond
Joann Richmond, Chief
Board Proceedings Division

Approved:

Ms. Cynthia Bridges
Ms. Cynthia Bridges
Executive Director

cc: (all with attachment)

Mr. Wayne Mashihara (MIC 46)

Ms. Susanne Buehler (MIC 92)

Mr. Kevin Hanks (MIC 49)

PROCEDURE FOR OBTAINING AND SAFEGUARDING INFORMATION FROM THE INTERNAL REVENUE SERVICE (IRS)

720.031

Federal Tax Information (FTI) is any information provided by IRS regarding a taxpayer including, but not limited to, information provided on federal income tax returns, quarterly federal tax returns, and annual federal unemployment tax returns. All data contained in the returns such as ownership information, personal and business addresses, and revenue and expense information is considered FTI.

The following are considered FTI:

- Original records received from IRS in both paper and electronic form.
- Copies of information received from IRS in both paper and electronic form.
- Data transcribed from IRS documents into any database, audit working papers, written and electronic forms or correspondence such as, but not limited to, levy letters.
- The printing of FTI from external agencies. The IRS has authorized the BOE to access and print FTI in the FTB's online databases. The FTB has flagged the FTI information that is contained on screens in the online databases as required by IRS Publication 1075. When a resource person accesses FTB information on FTB's online databases (TI, "Taxpayer Information System" and BETS, "Business Entity Tax System") and prints IRS information contained on screens of the databases, it is considered FTI.

There are two options for obtaining FTI from the IRS:

1. Transcript Delivery System (TDS)
2. Photocopies of IRS income tax returns

TDS provides transcripts to the Board of Equalization (BOE) electronically and is generally available within two weeks of the IRS receiving the request. Processing of requests for photocopies may take several months. Most FTI should be obtained by the TDS option.

The following transcripts are available through TDS:

1. Account Transcript includes the following information:
 - Subsequent activity posted to an account after the return is filed (e.g. payments, credits, adjustments).
 - Information on the account balance, interest, and penalties.
 - Taxpayer's filing status (e.g. "married filing joint").
 - Line item information from the return such as "Adjusted Gross Income," "Taxable Income," and "Tax Per Return." The amounts shown may be "per return" or "IRS adjusted." The transcript identifies the date on which IRS processed the return.
2. Return Transcript contains most lines from the original return, including attached forms and

schedules. The transcript contains both the “per return” and “IRS adjusted” entries. It does not contain subsequent activity on the account. Return transcripts are available for returns filed during the current and three prior tax years.

3. *Record of Account* includes both the “Account Transcript” and “Return Transcript” information, and is available for returns filed during the current and three prior years.
4. *Wage and Income Documents* shows income reported by taxpayers on forms such as W-2 and 1099. Wage and income information are only available for individual tax returns. Wage and Income documents are only available for wages and income earned during the current and ten prior years.

Requesting FTI

Requests for FTI under either option noted above should only be made when the information is not available from FTB or any other sources. A request for FTI should be made using a BOE-33-B, *Request for Federal Tax Information*.

The following information should be included on the BOE-33-B:

- Taxpayer’s name and address.
- BOE account or reference number.
- Taxpayer’s social security number (if requesting individual income tax returns).
- Spouse’s name and social security number (if known) when requesting individual income tax returns. Include the spouse’s name if both the husband and wife are on the permit, if attempting to locate community property assets, or if there is evidence the spouse was involved with the business but is not listed on the permit.
- Federal Employer’s Identification Number (FEIN) must be included when requesting partnership or corporate information.
- Write in the specific IRS form number(s) filed by the taxpayer. A complete list of available forms is provided in Exhibit 1. However, the following forms most commonly requested are:

(a) 940-Employer’s Annual Federal Unemployment Tax Return

(b) 941-Employer’s Quarterly Federal Tax Return

(c) 1040-U.S. Individual Income Tax Return

(d) 1065-U.S. Partnership Return of Income

(e) 1120-U.S. Corporate Income Tax Return

- Requesting unit, name of requestor, date of request, name and title of the approver, date approved, and signature (see the third bulleted below).

The procedures for electronic handling of the BOE-33-B are as follows:

- The Requestor will complete the BOE-33-B (except for the items to be completed by the approver as explained below).
- The Requestor will send the completed BOE-33-B for approval via email. The BOE Exchange of Information list contains the names of BOE staff within the district and headquarters unit or section, authorized to request, receive, and disclose tax information on behalf of BOE (approver). The approver is generally the District Administrator, District Principal Auditor, District Principal Compliance Supervisor or headquarters section supervisor.
- The approver will complete the section of the form titled "Approved By," "Title," and "Date Approved." In lieu of a signature, the approver will type in their name followed by the word "emailed" in parentheses on the "Approved By" (signature) line.
- The approver will email the completed BOE-33-B to the *SUTD-FTI Custodian mailbox*. The approver must use the unique District / Section Identifier in the subject line of the email sent to the SUTD-FTI Custodian Mailbox. The unique identifier format will include the district or section letters and a number sequence. For example: Sacramento District Office would be KH 00001. The email from the approver documents the approver's signature.
- The unique identifier must be included on the district's FTI request log.

Processing FTI

The Compliance Program Analysis Section (CPAS) is responsible for maintaining the SUTD-FTI Custodian mailbox and IRS Tracking Database, as well as processing FTI requests. The procedures for processing FTI requests are as follows:

- Check the SUTD-FTI Custodian mailbox for incoming BOE-33-B requests.
- Verify that the person who approved the request is included in the BOE Exchange of Information list.
- Process the request and send the Requestor FTI materials in a double sealed envelope marked "Confidential."
- The IRS Tracking Database sends an email to the District Administrator, HQ-SUP or their designee notifying them the FTI has been mailed.
- The FTI materials consist of the following documents:
 - TDS transcripts, photocopies of IRS returns, or IRS letters (FTI documents).
 - BOE-33, *Records of Authorized Examination of Federal Income Tax Returns*.
 - BOE-85, *Inspection or Disclosure Limitations (Federal)*.
- If the request is for "Photocopy of Return," enter the information on IRS Form 8796-A, *Request For Return/Information*. Send the form and a cover memo to:

Internal Revenue Service
Disclosure Scanning Operation Stop 93A
PO Box 621506
Atlanta, GA 30362-3006

- Maintain the *IRS Tracking Database*. The database documents all activities that occur in the process of issuing and destroying FTI materials. The required actions and the related database requirements are shown on the *FTI Actions & Database Activity Table* (Exhibit 2).

Receiving FTI

Upon receipt of the FTI materials in a double sealed envelope marked “Confidential” from CPAS, the Requestor must confirm receipt via email to the SUTD-FTI Custodian’s mailbox. The date of the email is entered into the database in the “District Acknowledgement” section.

Safeguarding FTI

The BOE has a statutory obligation to protect FTI from unauthorized access and disclosure under the Internal Revenue code (IRC § 6103(d)). In order to comply with the IRS information safeguarding requirements, BOE-85, *Inspection or Disclosure Limitations (Federal)*, must be attached to flag any page within BOE files that include FTI. It is not necessary, however, to attach a BOE-85 to income tax returns received from someone other than the IRS, such as the taxpayer.

The requestor is personally responsible for safeguarding the FTI documents. When staff is in possession of FTI, it is critical that the information is treated with the utmost security and confidentiality. Only staff with a business reason to view the information may access it. If the information is examined for any reason, the viewing must be documented as follows:

Hard-Copy Documents

A BOE-33 must be attached to all hard-copy documents and reports containing FTI (including, but not limited to paper documents, audit working papers, etc.). Any person inspecting the document must complete the *Date, Purpose of Examination, Signature of Board Representative, and Employee Number* fields. The form must be signed by the District Administrator or Headquarters unit or section supervisor.

Electronic Documents

The viewing or examining of electronic documents containing FTI including, but not limited to, documents on electronic media (e.g. CD-Roms (CDs), flash drives) must be documented in the *FTI Tracking Log*. To begin the entry, select *Add New Request* and complete the required fields.

Storage of Hard-Copy and Electronic Documents

While the hard-copy documents, reports, and documents on electronic media are in the possession of staff, they must be stored in a separate, locked cabinet during all times when not being examined by staff. CDs and flash drives must have a label indicating that FTI data is stored on them.

FTI in ACMS

When accessing the “IRS Address Detail” or “IRS Levy Detail” screens in ACMS, the user is presented with a warning banner that reads “CONFIDENTIAL IRS DATA.” ACMS has an IRS

Summary feature in which the user must record any FTI. It is crucial for the user to update ACMS and properly record FTI data using the IRS Summary.

Levy Letters Containing FTI

Levy letters that contain information from IRS are considered FTI. The following information may be noted on levy letters:

- Tax Debtor's SSN or FEIN
- Tax Debtor's address
- Tax Debtor's "aka" or "dba"
- Tax Debtor's spouse (name, SSN, address)
- Sources of income (Banking institutions, Financial institutions, Sources of Independent Contractor income, Insurance policies, etc.)

Levy letters that contain this type of information from IRS must be documented in the FTI Tracking Log.

Audits Containing FTI

Digital audits stored on the J: drive, archived on CDs, or uploaded to the Audit Archive must be identified if they contain FTI. To do so, the file folder should utilize the following naming convention: District Code Case Number Taxpayer Name FTI. CDs must be encrypted and labeled as FTI. In addition, if viewing digital audits with FTI information, you must enter the viewing information on the FTI Tracking Log.

Destroying FTI

When hard copy documents, including transcribed notes, levy letters and *Memorandum of Garnishee*, that are provided to BOE are no longer needed, they must be forwarded to the supervisor of CPAS (MIC 02) in a double sealed envelope marked "Confidential" for destruction. In addition, an email must be sent to the SUTD-FTI Custodian's mailbox confirming the FTI materials are being returned for destruction. The date of the email is entered into the database in the "District Return Notification" section. When CPAS receives the FTI materials and BOE forms, they date stamp the envelope and enter the date returned in the database "Received from District" section.

The FTI materials will be destroyed with the approved shredder located in CPAS.